



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2016-0268]

Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-3050, “Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation.” This proposed revision (Revision 2) to RG 3.54 provides methods acceptable to the Nuclear Regulatory Commission (NRC) staff for calculating spent nuclear fuel heat generation rates for use for an independent spent fuel storage installation (ISFSI).

DATES: Submit comments by **[INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER NOTICE]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods:

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0268. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: OWFN-12H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Alexis Sotomayor-Rivera, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-7265; e-mail: Alexis.Sotomayor-Rivera@nrc.gov and Harriet Karagiannis, Office of Nuclear Regulatory Research, telephone: 301-415-2493 or e-mail: Harriet.Karagiannis@nrc.gov, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2016-0268 when contacting the NRC about the availability of information regarding this document. You may obtain publically-available

information related to this document, by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for

Docket ID NRC-2016-0268.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if available in ADAMS) is provided the first time that a document is referenced. The DG is electronically available in ADAMS under Accession No. ML16139A215.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2016-0268 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before

making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, "Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation," is temporarily identified by its task number, DG-3050. Draft Guide-3050 is proposed Revision 2 to Regulatory Guide (RG) 3.54, dated January 1999.

This revision (Revision 2) presents an up-to-date methodology for determining heat generation rates for both PWR and BWR fuel and provides greater flexibility (less restrictions) than the previous revision. It allows loading of higher burnup fuel by using more accurate methods for decay heat calculations by covering a wider range of fuel characteristics, including operating history.

III. Backfitting and Issue Finality

This draft regulatory guide, if finalized, would provide guidance to general and specific NRC part 72 licensees with respect to determining heat generation rates for spent fuel. Issuance of this draft regulatory guide, if finalized, would not constitute backfitting as defined in section 72.62(a) of title 10 of the *Code of Federal Regulations* (10 CFR), which is applicable

to ISFSIs. Issuance of the draft regulatory guide, if finalized, would also not constitute backfitting under 10 CFR 50.109, or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The staff's position is based upon the following considerations.

1. The draft regulatory guide positions, if finalized, describe a methodology acceptable to the NRC staff, and expressly states that current licensees may continue to use guidance the NRC found acceptable for complying with the identified regulations as long as the licensee does not initiate, as a voluntary matter, a change to its current licensing basis. Therefore, the guidance, if finalized, would not constitute backfitting as defined in 10 CFR 72.62(a).
2. The NRC has no intention of imposing the positions in the draft regulatory guide on existing ISFSI or nuclear power plant licenses either now or in the future (absent a voluntary request for change from the licensee).
3. The matters addressed in the regulatory guide apply equally to both specific licensees under part 72 as well as general licensees under who hold ISFSI licensees by virtue of their status as holders of part 50 operating licenses or as holders of part 52 combined licenses.
4. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants. Applicants and potential applicants are not, with certain exceptions, protected by the backfitting provisions in 10 CFR 72.62. This is because the backfitting provisions in Part 72 were not intended to apply to every

NRC action which substantially changes the expectations of current and future applicants.

Dated at Rockville, Maryland, this 19th day of December, 2016.

For the Nuclear Regulatory Commission.

Thomas H. Boyce, Chief,
Regulatory Guidance and Generic Issues Branch,
Division of Engineering,
Office of Nuclear Regulatory Research.

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